



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

Judith Williams Jagdmann
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071

804-371-8947TDD

July 25, 2005

Dr. Jo Lynne DeMary
Superintendent of Public Instruction
Department of Education
Monroe Building
101 North 14th Street
Richmond, VA 23219

Re: Rules Governing the Licensure of School Personnel
(8 VAC 20-21-10 et seq.)

Dear Dr. DeMary:

You ask whether the Virginia Board of Education possesses the requisite statutory authority to amend its Regulations Governing the Licensure of School Personnel, 8 VAC 20-21-10 et seq.

Section 22.1-16 vests the Board of Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1. Additionally, § 22.1-298 directs the Board to prescribe requirements for the licensure of teachers, superintendents, principals, and other school leaders. In my view, therefore, the Board possesses the requisite authority to promulgate these regulations.

Certain agency actions are exempted from the requirements of Article 2 of the Administrative Process Act, §§ 2.2-4000 *et seq.* of the Code of Virginia. Among these are regulations that are “[n]ecessary to conform to changes in Virginia statutory law or the appropriations act where no agency discretion is involved.” Code § 2.2-4006.A.4.a. In my view, this proposed changes to this regulation fall within this exemption as the result of the enactment of Chapters 481, 891, and 903 of the 2005 Acts of Assembly.

The foregoing represents my view and does not constitute an official opinion of the Attorney General. If you require additional assistance from me on this matter, please do not hesitate to contact me.

Sincerely,

Deborah A. Love
Senior Assistant Attorney General